IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO: 3798 of 2005

Between:

Dagam Raya Posham, S/o. Rajam,
Singarenicollieries, Indharam Khani, I A incline,

R/o. Adilabad District.

.... PETITIONER

AND

The Project Officer, IK & CH, Mines,

The Singareni Colleries Company Limited,
Srirampur (P) Area, Adilabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more in the nature of writ of mandamus directing the respondent to reinstate the petitioner into service by setting aside the orders of the respondents bearing NO. SRP/PER/13.008/6965 dt. 22-12-2004 declaring the same to be illegal and arbitrary and grant all consequently benefits thereon and pass such other order or orders, as this Hon'ble Court deems fit and proper under the circumstances of the case.

Counsel for the Petitioner: MR.K.ANANTHA RAO

Counsel for the Respondent: MR.NANDIGAM KRISHANA RAO

The Court at the admission stage made the following:

ORDER:

None appeared for the petitioner. The petitioner is seeking a writ of *Mandamus* directing the respondent to reinstate the petitioner into service by setting aside the order of the respondent bearing No.SRP/PER/13.008/6965 dated 22.12.2004.

2. A charge sheet has been issued to the petitioner on 16.01.2004 for his unauthorized absence of 251 days during the year 2003. The petitioner did not even submit any explanation to the charge sheet. Therefore, a regular departmental enquiry was conducted and after conducting enquiry, the disciplinary authority passed the impugned order dismissing the petitioner from services. The same is under challenge.

3. The respondent filed a detailed counter affidavit stating that there is no violation of any rule or regulation in conducting enquiry. The domestic enquiry was conducted by fully complying with the principles of natural justice. As the charges have been proved, the respondent was constrained to dismiss the petitioner. Hence there are no grounds to interfere with the dismissal order.

4. As per the charge sheet dated 16.01.2004, the petitioner was absent for about 251 days during the year 2003. He was a habitual absentee from duty without sufficient cause. Therefore, he was asked to give explanation, for which the petitioner did not give any explanation. Thereafter, after giving reasonable opportunity and after following the principles of natural justice, a regular departmental enquiry has been conducted. After accepting the findings of the enquiry officer, the disciplinary

authority issued a show cause notice for which the petitioner did not give any explanation. The findings of the enquiry officer remain unchallenged.

5. It is nowhere stated that the findings are not based upon evidence and material available on record. The only ground taken in the writ petition is that the enquiry officer did not consider reasons for his absence. It is not for the enquiry officer to know under what circumstances or for what reasons the petitioner absented from duties. It is for the petitioner to establish the same. It is not a case of denial of adducing any evidence by the petitioner. The impugned proceedings did not suffer from any incurable legal infirmity so as to call for interference by this Court.

6. Hence the writ petition is devoid of merits and it is accordingly dismissed. No costs.

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K.C.BHANU, J

Dated: 6.4.2005

RAR

To

1) The Project Officer, IK & CH, Mines,

The Singareni Colleries Company Limited,
Srirampur (P) Aread, Adilabad.

2) 2 CD copies